

ARKANSAS SUPREME COURT

No. 06-1021

MICHAEL BRITT HODGES
Appellant

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION, *ET AL*
Appellees

Opinion Delivered March 15, 2007

PRO SE APPEAL FROM THE CIRCUIT
COURT OF JACKSON COUNTY, CV
2006-127, HON. HAROLD S. ERWIN,
JUDGE

AFFIRMED.

PER CURIAM

In 1995, appellant Michael Britt Hodges entered a plea of guilty to attempted rape and violation of a minor. An aggregate sentence of 240 months' imprisonment was imposed.

In 2006, appellant, proceeding pro se, filed a petition for writ of habeas corpus in the county in which he was incarcerated.¹ The petition was denied, and appellant brings this appeal from the order.

In his petition, appellant contended that he was entitled to a writ of habeas corpus because he was wrongfully denied release on parole. The circuit court denied the petition on the ground that the allegation did not demonstrate that the trial court in which appellant was convicted lacked

¹Appellant named as respondents to the petition for writ of habeas corpus the Director of the Arkansas Department of Correction, the chairman of the Arkansas Parole Board, and the Governor of Arkansas.

jurisdiction or that the commitment was invalid on its face, and thus appellant had failed to state a basis for issuance of the writ. On appeal, appellant argues that he was denied due process of law by the parole board and that a habeas petition is the correct vehicle to address the deprivation of his right to release from custody.

It is well settled that the burden is on the petitioner in a habeas corpus petition under Ark. Code Ann. 16-112-103 (1987) to establish that the trial court lacked jurisdiction or that the commitment was invalid on its face; otherwise, there is no basis for a finding that a writ of habeas corpus should issue. *Young v. Norris*, 365 Ark. 219, ___ S.W.3d ___ (2006) (per curiam). A claim that one has been denied release on parole does not fall within the narrow purview of a habeas proceeding in that the claim, even if it were supported by fact, would not establish that the court in which the candidate for parole was convicted lacked jurisdiction or that the commitment was invalid on its face. To demonstrate that the writ should issue, a petitioner must plead either the facial invalidity or the lack of jurisdiction and make a "showing, by affidavit or other evidence, [of] probable cause to believe" he is illegally detained. *Id.*; see also *Wallace v. Willock*, 301 Ark. 69, 781 S.W.2d 478 (1989). Appellant failed to show any invalidity of the commitment in his case or demonstrate that there was a lack of subject-matter jurisdiction.

Appellant urges this court to find that his claim that he was denied due process of law by the decisions of the parole board is within the scope of a habeas corpus proceeding because he has no other remedy, but we decline to extend the scope of the writ to cover parole matters. As appellant failed to state a valid challenge to the trial court's subject-matter jurisdiction or authority to convict and sentence him and failed to show that the commitment rendered in his case was facially invalid, the court did not err when it refused to issue a writ of habeas corpus. Accordingly, the court's order

is affirmed.

Affirmed.